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PROVISIONAL SUMMARY RECORD OF THE 38th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 22 July 1997, at 3 p.m.

President: Mr. CHOWDHURY (Bangladesh)
(Vice-President)

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In the absence of Mr. Galuška (Czech Republic), Mr. Chowdhury (Bangladesh), Vice-President, took the Chair

The meeting was called to order at 3.15 p.m.

NON-GOVERNMENTAL ORGANIZATIONS (agenda item 13) (E/1997/L.45)

Ms. STARR NEWELL (Assistant Secretary of the Council) said that the draft decision on participation of non-governmental organizations (E/1997/L.45) came under agenda item 13 (non-governmental organizations) and not 7 (c) as stated in the document itself.

Mr. RUNGE (Germany), introducing the draft decision, said that it had been submitted for purely technical reasons in order to allow non-governmental organizations (NGOs) to participate in the work of various subsidiary bodies while awaiting a decision on their application for consultative status with the Council. A similar decision had been adopted by the Council the previous year.

Draft decision E/1997/L.45 was adopted.

REPORTS, CONCLUSIONS AND RECOMMENDATIONS OF SUBSIDIARY BODIES:

(d) HUMAN RIGHTS QUESTIONS (agenda item 7 (d)) (continued) (E/1997/22, 23 and 87; E/1997/L.23)

Ms. TOMANO (International Youth and Student Movement for the United Nations (ISMUN)), speaking on behalf of her own organization and a number of other NGOs, most of them members of the NGO, Sub-Committee on Racism, Racial Discrimination and Decolonization, said that racism, racial discrimination and xenophobia were on the rise and constituted a grave threat to peace and human rights. She thus urged the Council to endorse the Commission on Human Rights recommendation to the General Assembly (resolution 1997/74) that the United Nations convene a world conference on racism, racial discrimination, xenophobia and related intolerance no later than the year 2001. The majority of Member States supported the holding of such a conference, which would raise awareness of the growing peril of racism and racial discrimination, strengthen action to combat it and contribute to maintaining a partnership between the United Nations, Governments and NGOs on an issue that required concerted action.

Mr. AHMAD (World Muslim Congress) said that there had been a number of complaints to the Commission on Human Rights concerning double standards in the handling of human rights violations. For example, appropriate action in Bosnia, even as late as 1993, would have saved many

lives, prevented appalling suffering and destruction and ensured the integrity of a multi-ethnic Bosnia-Herzegovina State. A narrow concept of national interests was detrimental to the universality of human rights, and human rights violations which were repeatedly reported to the Commission without remedial action being taken created cynicism among the victims.

There had also been a decrease in support for the right to self-determination of peoples under alien domination; a right which, forming part of jus cogens, could not be derogated from for any reason. In that regard, the International Court of Justice had stated in its advisory opinion on Western Sahara that no territory could be integrated into a State except with the assent of its people. The exercise of the right to self-determination was not an internal matter to be decided by an occupying Power, and violation of that right was an international crime which the international community had a duty to prevent. States also resorted to terrorist practices to suppress a subjugated people's aspiration to self-determination.

In response to those problems, his organization proposed the establishment of an independent inspection and study agency to review long-standing cases of human rights violations and issue judicial findings. The agency should be composed of individuals of great personal integrity and broad experience in the administration of justice, who would be free from political control, and the problem of the double standard would be resolved. He recommended that such an agency should take, as its first case, the situation of the people of Kashmir.

Mr. ROMAZZOTTI (International Movement ATD Fourth World) said that the Commission on Human Rights, the General Assembly and the World Conference on Human Rights had recognized that persons living in extreme poverty must be consulted and involved in the promotion of their rights and the struggle against their situation. He thus urged the Council to adopt the draft decision on human rights and extreme poverty recommended to it by the Commission, which called for publication of the final report of the Special Rapporteur on human rights and extreme poverty, the first United Nations report to be prepared with the participation of the victims. He suggested that the report should be presented to the General Assembly on 17 October 1998, the International Day for the Eradication of Poverty.

The PRESIDENT invited the Council to take note of the report of the Secretary-General on implementation of the Programme of Action for the Third Decade to combat racism and racial discrimination (E/1997/87) and the report of the Committee on Economic, Social and Cultural Rights on its fourteenth and fifteenth sessions (E/1997/22).

It was so decided .

The PRESIDENT said he took it that the Council wished to defer action on the three draft decisions submitted by the Committee on Economic, Social and Cultural Rights until their programme budget implications had been published.

It was s decided .

Proposals contained in the report of the Commission on Human Rights on its fifty-third session (E/1997/23)

The PRESIDENT invited the Council to take action on the draft proposals recommended to it by the Commission and contained in chapter I of the Commission's report. The administrative and programme budget implications of those draft resolutions and decisions were contained in annex III to the report.

Draft resolutions I, II and III, contained in chapter I, section A

Draft resolutions I, II and III were adopted .

Draft decisions 1-52, contained in chapter I, section B

The PRESIDENT said that the Commission had adopted resolution 1997/10, corresponding to draft decision 1, and entitled "Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development" by a roll-call vote (34-3-15).

Ms. KIRSCH (Luxembourg), speaking on behalf of the European Union in explanation of vote before the voting, reiterated its members' support for the efforts made by the High Commissioner for Human Rights and the Secretary-General to restructure the Centre for Human Rights as part of the reform of the United Nations system. The Union considered that the proposal to establish a unit for the promotion of economic, social and cultural rights and the right to development was contrary to the purpose of that restructuring and to decisions taken by the General Assembly in that regard, and that it constituted interference in administrative and procedural matters which were the prerogative of the High Commissioner and the Secretary-General. The members of the Union would thus vote against the draft decision.

At the request of the representative of the United Kingdom, a vote was taken by roll-call on draft decision B 1.

Lebanon, having been drawn by lot by the President, was called upon to vote first.

In favour: Bangladesh, Brazil, Cape Verde, Chile, China, Colombia, Côte d'Ivoire, Cuba, Djibouti, El Salvador, India, Jamaica, Jordan, Lebanon, Malaysia, Mexico, Mozambique, Nicaragua, South Africa, Spain, Sri Lanka, Sudan, Thailand, Togo, Tunisia, Turkey, Uganda.

Against: Australia, Belarus, Canada, Czech Republic, Finland, France, Germany, Iceland, Japan, Luxembourg, Netherlands, Poland, Romania, Russian Federation, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Gabon, Philippines, Republic of Korea.

Draft decision B 1 was adopted by 27 votes to 17, with 4 abstentions.*

Draft decisions 2-23

Draft decisions 2-23 were adopted.

At the request of the representative of Cuba, a vote was taken by roll-call on draft decision 24, entitled "Situation of human rights in the Islamic Republic of Iran".

India, having been drawn by lot by the President, was called upon to vote first.

In favour: Argentina, Australia, Brazil, Canada, Chile, Czech Republic, El Salvador, Finland, France, Germany, Iceland, Jamaica, Japan, Luxembourg, Mexico, Netherlands, Nicaragua, Poland, Romania, Russian Federation, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Bangladesh, China, Cuba, India, Malaysia, Sudan.

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* The delegations of Latvia and Spain subsequently informed the Council that they had intended to vote against the draft decision.

Abstaining: Belarus, Cape Verde, Colombia, Djibouti, Gabon, Jordan, Latvia, Lebanon, Mozambique, Philippines, Republic of Korea, South Africa, Sri Lanka, Thailand, Togo, Tunisia, Turkey, Uganda.

Draft decision 24 was adopted by 24 votes to 6, with 18 abstentions.

At the request of the representatives of the United States of America and Lebanon, a vote was taken by roll-call on draft decision 25, entitled "Human rights situation in southern Lebanon and West Bekaa".

The Netherlands, having been drawn by lot by the President, was called upon to vote first.

In favour: Argentina, Australia, Bangladesh, Belarus, Brazil, Canada, Cape Verde, Chile, China, Colombia, Cuba, Czech Republic, Djibouti, El Salvador, Finland, France, Germany, Iceland, India, Jamaica, Japan, Jordan, Latvia, Lebanon, Luxembourg, Malaysia, Mexico, Mozambique, Netherlands, Nicaragua, Philippines, Poland, Republic of Korea, Romania, Russian Federation, South Africa, Spain, Sri Lanka, Sudan, Sweden, Thailand, Togo, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland.

Against: United States of America.

Abstaining: Gabon.

Draft decision 25 was adopted by 46 votes to 1, with 1 abstention.

Draft decision 26 was adopted.

Draft decision 27, entitled "Situation of human rights in Zaire" was adopted.

Ms. SCHOSSELER (Luxembourg), speaking on behalf of the European Union, said she welcomed the fact-finding mission's excellent report on violations of human rights in the east of the Democratic Republic of the Congo (A/51/942) which had managed to provide a very clear picture of the worrying situation there, even though the Government had taken the unacceptable measure of not authorizing access to all of the regions in the mission's mandate.

The Union, which attached the highest importance to the success of the new fact-finding mission proposed by the Secretary-General, urged the Congolese authorities to cooperate fully and promptly and to ensure the team's safety.

Respect for human rights and international humanitarian law was vital to building a climate of trust for leading the country towards stability and creating a State based on the rule of law, durable democratic structures and the foundations of sustainable development.

Draft decision 28 entitled "Situation of human rights in the Sudan"

Mr. WAHID (Sudan), speaking in explanation of vote before the voting, said that the findings of the Special Rapporteur on the situation of human rights in the Sudan, which had led to Commission resolution 1997/59 and thus to the draft decision under consideration, had been based on innuendoes and hearsay evidence which remained unsubstantiated. His Government had, nevertheless, declared its readiness to cooperate fully, and had extended a number of invitations to thematic rapporteurs and chairmen of relevant working groups.

Many of the accusations levelled against his country's authorities had been rendered obsolete by subsequent developments. Paragraphs 8 and 17 of resolution 1997/59, for example, were redundant, since political detainees had been released in the general amnesty of 13-18 May 1997 and a report on the Juba events of 1992 had been handed over to the Centre for Human Rights in June 1997. Moreover, his Government was currently cooperating fully with IGDA in negotiating an equitable resolution to the situation in southern Sudan. It had signed peace agreements with several factions from the southern Sudan on 21 April 1997 guaranteeing human and other rights, which had subsequently been incorporated into basic law by the National Assembly.

His delegation had objected to the proposal in paragraph 25 of resolution 1997/59 since it had adverse implications for his country's national sovereignty and because the current situation in the country could in no way justify the placement of field officers.

At the request of the representative of the Sudan, a vote was taken by roll-call on draft decision 28.

In favour: Argentina, Australia, Belarus, Brazil, Canada, Cape Verde, Chile, Colombia, Czech Republic, El Salvador, Finland, France, Germany, Iceland, Jamaica, Japan, Latvia, Luxembourg, Mexico, Netherlands, Nicaragua, Poland, Romania, Russian Federation, South Africa, Spain, Sweden, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: China, Cuba, Sudan.

Abstaining: Bangladesh, Djibouti, Gabon, India, Jordan, Lebanon, Malaysia, Mozambique, Philippines, Republic of Korea, Sri Lanka, Thailand, Togo, Tunisia.

The draft decision was adopted by 31 votes to 3, with 14 abstentions.

Draft decisions 29 and 30 were adopted.

The PRESIDENT invited the Council to consider draft decision 31, entitled "Human rights in Cuba", the corresponding resolution to which (1997/62) had been adopted in the Commission by a roll-call vote (19-10-24).

Mr. AMAT FORES (Cuba), speaking in explanation of vote before the voting, said that his delegation would vote against the draft decision. The Council was once again considering extension for a further year of the mandate of a Special Rapporteur, who had been found lacking in objectivity and impartiality in his approach to the so-called situation of human rights in Cuba. His sources of information lacked all credibility because of his bias in favour of the declared enemies of Cuba. The Government of Cuba, which would never accept a report by such a person, nevertheless reiterated its continued openness to dialogue and cooperation with the United Nations and with all parties respecting Cuban sovereignty, on the basis of equality and in the name of understanding and coordination.

At the request of the representative of Cuba, a vote was taken by roll-call.

Finland, having been drawn by lot by the President, was called upon to vote first.

In favour: Australia, Canada, Chile, Czech Republic, Finland, France, Germany, Iceland, Japan, Luxembourg, Netherlands, Nicaragua, Poland, Republic of Korea, Romania, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Belarus, China, Cuba, India, South Africa, Sudan, Uganda, Zambia.

Abstaining: Argentina, Bangladesh, Brazil, Cape Verde, Colombia, Djibouti, El Salvador, Gabon, Jamaica, Jordan, Latvia, Lebanon, Malaysia, Mexico, Mozambique, Philippines, Russian Federation, Sri Lanka, Thailand, Togo, Tunisia.

Draft decision 31 was adopted by 20 votes to 8, with 21 abstentions.

Mr. WINNICK (United States) said he wished to draw the Council's attention to the recent arrest by the Cuban authorities of members of the Dissident Working Group. Four members of that group had been detained, their homes searched and documents seized. His delegation, which firmly condemned the arrest of persons solely because they were peacefully seeking to exercise fundamental rights guaranteed by the Universal Declaration of Human Rights, called upon the Cuban Government to release the arrested dissidents and to take the necessary steps to guarantee the exercise of the fundamental freedoms.

Mr. AMAT FORES (Cuba), speaking on a point of order, said that the statement being delivered by the representative of the United States was out of order because the Council was dealing with explanations of votes, while that representative was referring to issues which were neither before the Council nor within the Council's competence.

Mr. WINNICK (United States) said that, in his explanation of vote, he had been referring to additional reasons why the draft decision deserved support.

Draft decisions 32-37

Draft decisions 32-37 were adopted.

The PRESIDENT suggested that the Council should postpone action on draft decision 38, entitled "Racism, racial discrimination, xenophobia and related intolerance", until it had considered the amendments submitted by the delegation of the United States, which would be issued the following day as document E/1997/L.47.

It was so decided.

Draft decisions 39-43

Draft decisions 39-43 were adopted.

The PRESIDENT invited the Council to consider draft decision 44 entitled "Effects of structural adjustment policies on the full enjoyment of human rights", which had been approved in the Commission by a vote (36-13-3).

At the request of the representative of the United Kingdom, a vote was taken by roll-call.

The Russian Federation, having been drawn by lot by the President, was called upon to vote first.

In favour: Bangladesh, Brazil, Cape Verde, Chile, China, Colombia, Cuba, Djibouti, El Salvador, Gabon, India, Jamaica, Jordan, Lebanon, Malaysia, Mexico, Mozambique, Nicaragua, Philippines, Republic of Korea, South Africa, Sri Lanka, Sudan, Thailand, Togo, Tunisia, Turkey, Uganda, Zambia.

Against: Australia, Belarus, Canada, Czech Republic, Finland, France, Germany, Iceland, Japan, Latvia, Luxembourg, Netherlands, Poland, Romania, Russian Federation, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina.

The draft decision was adopted by 29 votes to 19, with 1 abstention.

Draft decisions 45-52

Draft decisions 45-52 were adopted.

Mr. WINNICK (United States) said that he wished to explain his delegation's position on the various draft resolutions and decisions recommended by the Commission on Human Rights for adoption by the Council.

With respect to the Commission's consensus on arbitrary detention (resolution 1997/50), his delegation did not accept that there was a basic difference between detention and imprisonment: it was true that imprisonment involved a legal conviction, a fact of established law, but the distinction became blurred or collapsed entirely when courts convicted defendants in an arbitrary manner, as occurred in certain countries. The Commission should thus be careful not to restrict unduly the mandate or methods of work of the Working Group on Arbitrary Detention, in particular as it related to the Group's ability to investigate the treatment of individuals in countries without an independent judiciary. In that connection, he wished to emphasize that all States were bound by their obligations under the international human rights conventions to which they were signatories and by the human rights standards of customary international law.

With regard to the draft decision on economic, social and cultural rights, his delegation wished to stress the importance of the statement in article 25 of the Universal Declaration of Human Rights that everyone had the

right to a standard of living adequate for the health and well-being of himself and his family, including food, housing and other enumerated matters. In that connection, it welcomed the relevant resolution's endorsement of the Istanbul Declaration on Human Settlements and the Habitat Agenda, and the Rome Declaration on World Food Security and the World Food Summit Plan of Action.

Both the Istanbul and Rome conferences had recognized the importance of the full and progressive realization of the goals of providing everyone with access to adequate shelter and safe and nutritious food, and had emphasized the responsibility of Governments to their own people to have effective enabling approaches to those ends. They had also highlighted the roles of the private sector and civil society in that regard.

In the follow-up to the Rome and Istanbul conferences, his Government was taking further action to improve global food security and access to housing. In collaboration with non-governmental institutions, it was working on developing initiatives which responded to the seven commitments undertaken at Rome. A similar approach was being adopted in the area of housing.

His delegation was pleased to support a resolution dealing with recognized rights or aspirations, to the extent that it promoted human development in an integrated and sustainable way, recognized the interrelated centrality of the individual as well as his or her attainment of full civil and political rights, and had a practical and realistic orientation.

It had thus joined the consensus on Commission resolution 1997/17 since it focused on the individual in several respects, although there were other ideas reflected in the text, such as a possible study on the effect of structural adjustment, that did not meet those criteria and which, accordingly, it did not support.

Similarly, his delegation regretted that it had been unable to support the Commission resolution on capital punishment (resolution 1997/12). While it shared the goals of the resolution's sponsors to ensure that States imposed capital punishment in strict accordance with international legal requirements, the resolution, on the whole, was unbalanced and represented a significant departure from established international consensus norms concerning capital punishment.

The issue as to whether capital punishment should be imposed in connection with the most serious crimes was a difficult one, on which there

was no international consensus. While international law limited capital punishment to the most serious crimes and required certain safeguards, including due process, it did not prohibit capital punishment. Indeed, the International Covenant on Civil and Political Rights expressly recognized (article 6) the right of countries that had not abolished capital punishment to impose it. Accordingly, it was for each State to decide through its democratic process whether or not its domestic laws should allow capital punishment, in accordance with international standards.

Unfortunately, the resolution in question rejected that well-established international approach to capital punishment. It ignored the right of States to impose capital punishment in accordance with international norms and safeguards. It also implied that popular support for capital punishment in some countries, expressed through their democratic systems, should be ignored. For those reasons, his delegation had voted against the resolution in the Commission.

While his delegation had joined the consensus on draft decision 36 on the right to development and the corresponding Commission resolution 1997/72, it wished to reiterate its continuing belief that development should centre on the individual, not the State. It did not believe that Governments were the object of development; the power of the Government flowed from the people, and not the other way round. It did not accept the premise that the right to development was somehow bestowed on individuals by Governments. The proper role for Governments was to provide the proper climate for individual initiative to flourish. Good governance and the establishment of civil society were essential components of that climate.

The meeting rose at 4.55 p.m.